

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Arthur & Jannelle Holcomb,
Petitioners-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-25-0269
Parcel No. 16-12-326-018

On October 25, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Arthur and Jannelle Holcomb (Holcombs) requested a hearing and submitted evidence in support of their petition. They were self-represented. County Attorney Wayne Reisetter is the legal representative for the Board of Review and Assessor Catherine Creighton appeared for it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Holcombs, owners of property located at 6980 Cody Drive, Unit #61, West Des Moines, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, end-unit townhouse having 1542 total square feet of living area, a 1492 square-foot basement with 1194 square feet of living quarter finish, a 188 square-foot wood deck, a 30 square-foot open porch, and a 413 square-foot, two-car attached garage. The dwelling was built in 2005, and has a 2+00 quality grade. The dwelling is situated on 0.109 acres in the Diamond Brooke Townhome subdivision.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$277,080, representing \$45,000 in land value and \$232,080 in dwelling value.

Holcombs protested to the Board of Review on the ground that the assessment is not equitable as compared to similar properties in the taxing jurisdiction under Iowa Code 441.37(1)(a). However, they attached an appraisal and the parcels listed on the protest form were sales comparables taken from the appraisal. It is clear the Holcombs were raising the ground that the property is assessed for more than authorized by law under section 441.37(1)(b). The Board of Review denied the protest.

Holcombs then filed their appeal with this Board upon the same grounds. They state the Board of Review did not give proper credit to the offered appraisal, which they argue values the property more in line with comparable properties in the area and closer to the assessed value of other townhomes in the association. The Holcombs seek an assessed value of \$267,000, allocated \$45,000 to land value and \$222,000 in dwelling value.

Arthur Holcomb testified in support of his appeal. In his opinion, the appraisal he submitted demonstrates the fair market value of his townhouse more accurately than the assessor's records. He asserts the appraisal was done after careful inspection and measurement by two individuals from the appraisal company, while the assessor's office never inspected the property for the assessment. He testified a Board of Review member and the Assessor visited approximately 30 to 35 Diamond Brooke townhouses between the protest hearings and the issuance of the Board of Review decisions due to the large number of subdivision protests.

Holcomb reports there have been no sales in over a year in the subdivision and four listed properties were taken off the market and are now used as rental units. One such townhouse, Unit 64, was on the market for \$270,000 for over eleven months without any offers. He testified this unit is a mirror image of his "Plan C," two-car garage unit, except for approximately \$19,000 worth of upgrades to Unit 64 at the time of purchase. He reports Unit #64 assessment has decreased \$5010, while his assessment increased \$14,030 in 2011. Holcomb believes a greater adjustment should be

made for the difference in market value between two-car and three-car garage units. He is uncertain why three-car units' assessments have gone down while two-car units have increased.

Holcomb provided an exhibit listing four other "Plan C" Units with two-car garages and finished basements in the Diamond Brooke Townhouse subdivision (Exhibit 2). He has added together the square footage of the main level and finished basement area, provided purchase prices with dates ranging from 2000 to 2007, and the assessed value of each property. This data was without analysis and provided no credible evidence. Holcomb also paired his unit with Unit 64 to compare their 2005 purchase prices, 2001 assessed values, and 2011 assessed values (Exhibit 3). The purchase price of Unit 64 was approximately \$5000 more than the subject property. The compared unit assessment was reduced \$5010 while the subject property was increased \$14,030. In this exhibit, Holcomb also provided a listing of neighboring three-car units to show that most¹ of these had reductions in their 2011 assessments ranging from \$1380 to \$3830. We are uncertain why these units were reduced while the subject property was not.

Holcombs offered an appraisal prepared by Kevin Kesterson, which compared four 2010 sales and two active listings. All properties, except sale 1, have two-car garages similar to the subject property. The unit with the three-car garage was adjusted -\$8000. Unadjusted sale prices ranged from \$249,500 to \$300,000. The unadjusted price per square foot ranged from \$170.52 to \$196.34. Adjusted sale prices range from \$265,985 to \$278,610, or \$169.78 to \$182.31 per square foot. The subject property is assessed at \$179.69 per square foot at the upper end of the adjusted sale price range. The dwellings were similar in style, size, quality of construction, and age. Adjustments were made for gross living area/room count, age, location, basement size and finish, garage stalls, and other amenities. The active listings were adjusted -\$2,500 to -\$2700. Kesterson's final opinion of value for the subject property was \$267,000.

¹ Unit #59 had an increase of \$1700, however the exhibit indicates a 168 square-foot sunroom was added in 2010.

Deputy Assessor Catherine Creighton testified on behalf of the Board of Review. She reported a Board of Review member who happens to be an appraiser and the Assessor inspected many of the townhouses in the subdivision after the protest hearings because of the large number of homeowner protests. Creighton questioned the reasonableness of some of Kesterson's appraisal adjustments to sales comparables and the active listings. In her opinion, the adjustments to asking prices of the listings were inflated and inaccurate.

Creighton explained that the property record cards of the subject property and the comparables do not list any physical depreciation to the cost approach to valuation because the assessor's office is using the outdated 1998 *Iowa Real Property Appraisal Manual*. According to the Manual:

Physical depreciation results from factors which affect the physical condition of an improvement. A loss in value due to normal wear and tear, age or natural elements is considered to be physical depreciation.²

Under the 2008 manual guidelines, a six-year old home in normal condition, like the subject property, would generally be discounted -%5 for physical depreciation.³

The Board of Review offered an exhibit comparing 2001 through 2005 purchase prices of similar, end-unit, townhouses in the subdivision, total living area, basement finish, grades, and other amenities. Five of the six comparable properties had three-car garages, while the subject has a two-car garage. The properties were assessed from \$172 to \$181 per square foot. It is interesting to note the only comparable with a two-car garage had the highest assessed value per-square foot (\$181). The subject property is assessed at \$180 per square foot. The properties with three-car garages ranged from \$172 to \$178, with a median of \$174 per square foot. The 2011 assessed values of each property was adjusted using the *Iowa Real Property Appraisal Manual*. We find this adjustment method of adjusting assessments by costs does not provide any evidence to establish the fair market value of the properties.

² 2008 *Iowa Real Property Appraisal Manual* 7-3.

³ *Id.* 7-79.

In addition, the Board of Review provided a list of Diamond Brooke listings. We are unable to tell parcel details, such as basement finish and number of garage stalls, and the listing prices are unadjusted. Therefore, this chart (Exhibit C) provides little useful information. Exhibit D is a list of Diamond Brooke sales in 2009 and 2010. All are listed as normal sales transactions. None of the sale prices were adjusted for difference. At hearing, this Board requested property record cards for these sale properties be provided to the Board and the Holcombs to review the properties' details. The following charts summarize the information for two-car and three-car townhouses:

Two-Car Garage Townhouses

Address	Unit	TSFLA	SF Garage	SF Base Fin	Sale Date	Sales Price	Assessed Value	\$SPSF	\$AVPSF	Unit
6980 Cody Dr	#32	1270	395	1000	1/17/2009	\$201,000	\$226,930	\$158.27	\$178.69	Middle
6980 Cody Dr	#42	1314	413	1050	8/20/2009	\$227,000	\$227,200	\$172.96	\$172.91	Middle
6980 Cody Dr	#47	1322	400	700	6/26/2010	\$227,000	\$222,140	\$171.71	\$168.03	Middle
Subject	#61	1542	413	1194			\$277,080		\$179.69	End

Three-Car Garage Townhouses

Address	Unit	TSFLA	SF Garage	SF Base Fin	Sale Date	Sales Price	Assessed	\$SPSF	\$AVPSF	Unit
6980 Cody Dr	#14	1469	684	1100	2/10/2009	\$265,000	\$260,510	\$180.39	\$177.34	End
6980 Cody Dr	#59	1890	660	1596	10/29/2009	\$395,000	\$386,580	\$208.99	\$204.54	End
6980 Cody Dr	#35	1529	689	1200	9/22/2010	\$325,000	\$303,460	\$212.56	\$198.47	Middle

The sales price per square foot of two-car garage units range from \$201,000 to \$227,000, with a median of \$227,000. The unadjusted sale prices per square foot for these units range from \$158.27 to \$172.96, with a median of \$172.91. The subject property is assessed above the upper limits of the range at \$179.69 per square foot. However, we note all the two-car sales compared above are all middle units, while the subject property is an end unit.

Reviewing all the evidence, we find the Holcombs provided proof by a preponderance of the evidence to support their claim of over-assessment. The Kesterson appraisal offered the most credible evidence of the subject property's fair market value as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

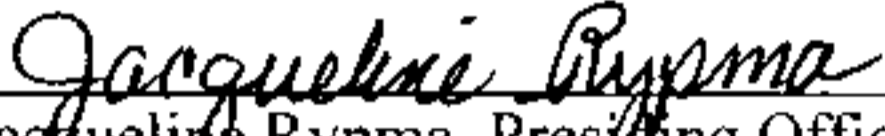
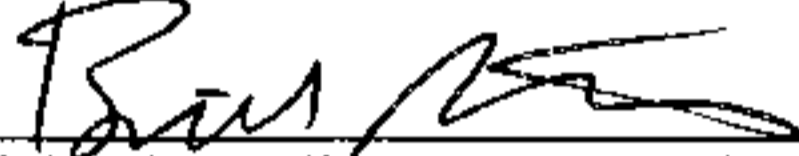
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). We find, by a preponderance of the evidence, Holcombs' property is assessed for more than authorized by law. The Kesterson appraisal is the most credible evidence of that the fair market value of the property is \$267,000.

The evidence does support their claim of over-assessment in the January 1, 2011, assessment. Therefore, we modify the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$267,000, representing \$45,000 in land value and \$222,000 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Dallas County Board of Review is modified as set forth herein.

Dated this 5 day of December 2011.


Jacqueline Rypma, Presiding Officer

Richard Stradley, Board Chair

Copies to:
Arthur & Janelle Holcomb
6980 Cody Drive #61
West Des Moines, IA 50266
APPELLANTS

Wayne Reisetter
Dallas County Attorney
207 N. 9th Street
Adel, IA 5003-1444
ATTORNEY FOR APPELLEE

Steve Helm
Dallas County Assessor
801 Court Street, Room 204
Adel, IA 50003
ASSESSOR

Gene Krumm
Dallas County Auditor
801 Court Street, Room 200
Adel, IA 50003
AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-5</u> , 201 <u>1</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	